

111TH CONGRESS
2D SESSION

H. R. 5762

To amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds in the District of Columbia by property and casualty insurance companies for the payment of policyholders' claims arising from natural catastrophic events.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2010

Ms. NORTON introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds in the District of Columbia by property and casualty insurance companies for the payment of policyholders' claims arising from natural catastrophic events.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “District of Columbia
5 National Disaster Insurance Protection Act”.

1 **SEC. 2. DISTRICT OF COLUMBIA NATURAL DISASTER PRO-**
2 **TECTION FUNDS.**

3 (a) CONTRIBUTIONS TO NATURAL DISASTER PRO-
4 TECTION FUNDS.—Subsection (c) of section 832 of the In-
5 ternal Revenue Code of 1986 (relating to the taxable in-
6 come of insurance companies other than life insurance
7 companies) is amended by striking “and” at the end of
8 paragraph (12), by striking the period at the end of para-
9 graph (13) and inserting “; and”, and by adding at the
10 end the following new paragraph:

11 “(14) the qualified contributions during the
12 taxable year to a natural disaster protection fund.”

13 (b) NATURAL DISASTER PROTECTION FUND GROSS
14 INCOME.—Subsection (b) of section 832 of such Code is
15 amended by adding at the end the following new para-
16 graph:

17 “(9) SPECIAL RULE FOR ASSETS HELD IN NAT-
18 URAL DISASTER PROTECTION FUND.—For purposes
19 of determining gross income under this subsection,
20 any items of income, gain, loss, or deduction derived
21 from or attributable to any assets held in a natural
22 disaster protection fund shall not be taken into ac-
23 count.”

24 (c) DISTRIBUTIONS FROM NATURAL DISASTER PRO-
25 TECTION FUNDS.—Paragraph (1) of section 832(b) of
26 such Code is amended by striking “and” at the end of

1 subparagraph (D), by striking the period at the end of
 2 subparagraph (E) and inserting “, and”, and by adding
 3 at the end the following new subparagraph:

4 “(F) the aggregate amount of all distribu-
 5 tions during the taxable year from a natural
 6 disaster protection fund, except that a distribu-
 7 tion made to return to the qualified insurance
 8 company any contribution that is not a quali-
 9 fied contribution for a taxable year shall not be
 10 included in gross income if such distribution is
 11 made prior to the filing by the qualified insur-
 12 ance company of its tax return for such taxable
 13 year.”

14 (d) DEFINITIONS AND OTHER RULES RELATING TO
 15 NATURAL DISASTER PROTECTION FUNDS.—Section 832
 16 of such Code is amended by adding at the end the fol-
 17 lowing new subsection:

18 “(h) DEFINITIONS AND OTHER RULES RELATING TO
 19 NATURAL DISASTER PROTECTION FUNDS.—For purposes
 20 of this section—

21 “(1) NATURAL DISASTER PROTECTION FUND.—
 22 The term ‘natural disaster protection fund’ (here-
 23 after in this subsection referred to as the ‘fund’)
 24 means any money, securities, or other property held

1 by a qualified insurance company that is identified
2 and maintained in a segregated account—

3 “(A) which is designated as a ‘natural dis-
4 aster protection fund’ and held in a bank or
5 bank branch located in the District of Columbia
6 that is licensed and regulated by the Comp-
7 troller of the Currency or the District of Colum-
8 bia Commissioner of Insurance, Securities, and
9 Banking,

10 “(B) under the terms of which—

11 “(i) the assets in the fund are re-
12 quired to be invested in a manner con-
13 sistent with the investment requirements
14 applicable to all insurance companies
15 under the laws of the District of Columbia,

16 “(ii) an excess balance drawdown
17 amount is required to be distributed to the
18 qualified insurance company no later than
19 the close of the taxable year following the
20 taxable year with respect to which such
21 amount is determined, and

22 “(iii) no portion of the assets of the
23 fund may be paid or distributed from the
24 fund except for a qualified distribution.

1 “(2) QUALIFIED INSURANCE COMPANY.—The
2 term ‘qualified insurance company’ means an insurer
3 or reinsurer that—

4 “(A) is incorporated and domiciled in the
5 District of Columbia,

6 “(B) is subject to supervision by the Dis-
7 trict of Columbia Commissioner of Insurance,
8 Securities, and Banking,

9 “(C) maintains an office in the District of
10 Columbia that employs no fewer than 10 full-
11 time equivalent employees, of whom no fewer
12 than 5 are residents of the District of Colum-
13 bia,

14 “(D) is subject to taxes imposed by the
15 District of Columbia on premiums collected for
16 natural catastrophic risk coverage at the rates
17 established in section 2608 of title 47, D.C. Of-
18 ficial Code, or any successor law without regard
19 to the location of the insured risk, and

20 “(E) is not subject to premium taxes im-
21 posed by any State or other taxing jurisdiction
22 for natural catastrophic risk coverage written
23 through the fund.

24 “(3) QUALIFIED CONTRIBUTION.—The term
25 ‘qualified contribution’ means a contribution to a

1 fund established by a qualified insurance company of
2 not more than the total of net premiums or other
3 payments received during a taxable year for coverage
4 of qualified losses, but only to the extent such con-
5 tribution, when added to all previous contributions
6 to the fund (including net investment earnings of the
7 fund) and after subtracting all qualified distribu-
8 tions from the fund, does not exceed the amount
9 reasonably at risk for the payment of qualified losses
10 insured through the fund, less reinsurance on those
11 risks, as determined actuarially on a multi-year
12 basis.

13 “(4) QUALIFIED DISTRIBUTION.—The term
14 ‘qualified distribution’ means any amount paid or
15 distributed for—

16 “(A) any payment of a qualified loss pur-
17 suant to an insurance policy or policy of rein-
18 surance issued by the qualified insurance com-
19 pany,

20 “(B) any payment made to reinsure or oth-
21 erwise spread the risk of catastrophe risk writ-
22 ten by the qualified insurance company,

23 “(C) any excess balance drawdown
24 amount,

1 “(D) any administrative expenses directly
2 related to the maintenance and investment of
3 the fund, and

4 “(E) any claims investigation and adjust-
5 ments relating to a qualified loss.

6 “(5) QUALIFIED LOSS.—The term ‘qualified
7 loss’ means an insured loss on a United States risk
8 that satisfies subparagraphs (A) and (B).

9 “(A) EVENT.—An insured loss satisfies
10 this subparagraph if the loss is attributable to
11 one or more of the following events:

12 “(i) Wind (including hurricanes and
13 tornados).

14 “(ii) Earthquake (including any fire
15 following).

16 “(iii) Flood.

17 “(iv) Tsunami or tidal wave.

18 “(v) Volcanic eruption.

19 “(vi) Fire.

20 “(vii) Hail.

21 “(viii) Snow, ice, freezing, or other
22 winter catastrophes.

23 “(ix) Pandemic or other public health
24 catastrophe.

1 “(B) CATASTROPHE DESIGNATION OR MIN-
2 IMUM AGGREGATE INSURED LOSS.—An insured
3 loss, with respect to an event described in sub-
4 paragraph (A), satisfies this subparagraph if at
5 least one of the following occurs:

6 “(i) Total insured losses from the
7 event, or from more than one event hap-
8 pening simultaneously or immediately fol-
9 lowing, exceeds \$1,000,000,000 on an in-
10 dustry-wide basis.

11 “(ii) The President of the United
12 States declares a disaster or state of emer-
13 gency because of the event.

14 “(iii) The Governor or chief executive
15 of a State, possession or territory of the
16 United States, or of the District of Colum-
17 bia, declares a disaster or state of emer-
18 gency because of such event.

19 “(iv) The Property Claims Services
20 unit of Insurance Services Office, Inc., de-
21 clares a catastrophic industry-wide loss be-
22 cause of one or more events.

23 “(6) EXCESS BALANCE DRAWDOWN AMOUNT.—

24 The term ‘excess balance drawdown amount’ means
25 the excess (if any) of—

1 “(A) the amount of the fund balance as of
2 the end of the taxable year, over

3 “(B) the total amount of exposure of the
4 fund to qualified losses at the end of the tax-
5 able year under policies written by the qualified
6 insurance company, as determined actuarially
7 on a multi-year basis.

8 “(7) UNITED STATES RISK.—The term ‘United
9 States risk’ means any hazard, risk, loss, or liability
10 attributable to property situated, or an activity con-
11 ducted, in the United States, or its territories or
12 possessions.

13 “(8) EXCLUSION OF PREMIUMS AND LOSSES ON
14 CERTAIN PUERTO RICAN RISKS.—Notwithstanding
15 any other provision of this subsection, premiums and
16 losses with respect to risks covered by a catastrophe
17 reserve established under the laws or regulations of
18 the Commonwealth of Puerto Rico shall not be taken
19 into account under this subsection in determining
20 the amount of the qualified contributions allowed or
21 the amount of qualified losses.

22 “(9) CONTRIBUTIONS IN KIND.—A transfer of
23 property other than money to a fund shall be treated
24 as a sale or exchange of such property for an
25 amount equal to its fair market value as of the date

1 of transfer, and appropriate adjustment shall be
2 made to the basis of such property. Section 267
3 shall apply to any loss realized upon such a transfer.

4 “(10) DISTRIBUTIONS IN KIND.—A distribution
5 of property other than money from a fund to a
6 qualified insurance company shall be treated as a
7 sale or exchange of such property, and any gain or
8 loss realized on such sale or exchange shall be ex-
9 cluded from the gross income of the qualified insur-
10 ance company.

11 “(11) REGULATIONS.—The Secretary shall pre-
12 scribe regulations as may be necessary or appro-
13 priate to carry out the purposes of this subsection.”

14 (e) ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS
15 FROM A NATURAL DISASTER PROTECTION FUND.—Sub-
16 section (d) of section 831 of such Code (relating to the
17 tax on insurance companies other than life insurance com-
18 panies) is amended by redesignating subsection (d) as sub-
19 section (e) and inserting after subsection (c) the following
20 new subsection:

21 “(d) TAX ON NONQUALIFIED DISTRIBUTIONS.—

22 “(1) IN GENERAL.—In the case of a qualified
23 insurance company, the tax imposed by this section
24 for the current year shall be increased by an amount
25 equal to 20 percent of the aggregate amount of non-

1 qualified distributions made by such company during
2 such year from a natural disaster protection fund.

3 “(2) DEFINITIONS.—

4 “(A) NONQUALIFIED DISTRIBUTIONS.—

5 The term ‘nonqualified distributions’ means any
6 distribution from a natural disaster protection
7 fund other than a qualified distribution (as de-
8 fined in section 832(h)(4)).

9 “(B) OTHER DEFINITIONS.—The terms
10 ‘qualified insurance company’ and ‘natural dis-
11 aster protection fund’ shall have the meanings
12 ascribed to such terms in section 832(h).”

13 (f) EFFECTIVE DATE.—The amendments made by
14 this bill shall apply to taxable years beginning after De-
15 cember 31, 2009.

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